IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FOURTEENTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 5622 of 1997

Between:

Secretary & Correspondent, Representing Annam Guravamma and Krishna Murthy College, Sattenpalli, Guntur District.

..... PETITIONER

AND

1. Labour Court Rep. by its Presiding Officer
   Guntur Guntur District.
2. Chillapalli Balakrishna Murthy S/o. Sambasivarao,
   Ambetkar Nagar Near F.C.I.,
   Sattenapalli Guntur District.

.....RESPONDENTS

Petition under Article 226 r/w 227 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction especially one in the nature of writ of certiorari calling for the records in I.D.No.85 of 1995 on the file of the Labour Court, Guntur and quash the same.

Counsel for the Petitioner: MR. M. SURENDER RAO

Counsel for the Respondent No.1: GP FOR LABOUR

Counsel for the RespondentNo.2:MR. NIMMAGADDA VENKATESWARARAO

The Court made the following:

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ORDER:

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This writ petition is filed by the petitioner aggrieved by the Award passed by the Labour Court, Guntur in I.D.No.85 of 1995
dated 27-12-1996.

2. The petitioner appointed the second respondent as Library Record Assistant on 29-06-1991 originally for a period of three months, on a consolidated pay of Rs.300/- and the petitioner was renewing the orders periodically even though the pay of the second respondent was increased from Rs.350/-, Rs.450/-, and then to Rs.500/- per month, finally his pay was increased to Rs.550/- by the date of termination. As the second respondent demanded for payment of regular scale of pay, the petitioner had resorted to dispense with his services with effect from 03-04-1995 by orally informing the second respondent not to attend the petitioner's institution from next day onwards.

3. According to the second respondent, the said action of the petitioner amounts to termination of the services of the 2nd respondent without issuing any notice and without complying with the provisions of the Industrial Disputes Act, 1947 (for short, "the Act") and without payment of any compensation as contemplated under the provisions of the said Act. Therefore, the second respondent raised an industrial dispute before the first respondent Labour Court, Guntur. Before the Labour Court, the Management filed counter disputing the claim of the second respondent and also contending that the Labour Court has no jurisdiction to try the case, as the petitioner is an educational institution affiliated to the Nagarjuna University. It was also stated that as the Correspondent to the petitioner's institution is not empowered to appoint permanent staff, the second respondent was appointed on temporary basis from time to time and his services were terminated with reference to the terms of appointment. Therefore, there is no case for granting any relief. The Labour Court framed appropriate issues and after considering the rival contentions as well as the evidence adduced before it, held that the petitioner is an "industry" attracting the

provisions of the Industrial Disputes Act. With reference to the termination of the services, the Labour Courtl held that the second respondent worked for more than 240 days continuously within a period of one year and his services were terminated contrary to the provisions of the Act. The Tribunal also noted that the appointment orders have been issued from time to time for a period of three months and finally his services were terminated without even passing an order. Therefore, the Tribunal concluded that the said termination is contrary to the provisions of the Act and therefore, held invalid and accordingly ordered reinstatement of the petitioner into service with all consequential benefits, including back wages. Aggrieved by that, the petitioner has come up with the present writ petition.

4. The learned Counsel for the petitioner contended that the second respondent was appointed for a fixed period and his services were terminated in terms of the said appointment order and the same would not attract the provisions of Section 25 F of the Act in order to issue any notice nor payment of any compensation as was held by the Supreme Court in case of **STATE OF RAJASTAN v. RAMESHWAR LAL GAHLOT.** The learned counsel for the second respondent submitted that the facts in that case are totally different from that of the present case.

5. Heard both sides and considered the material on record.

6. Admittedly, the second respondent was appointed by the petitioner institution on 29-06-1991 and continued for a period of more than 4 years may be by issuing orders from time to time as well as increasing pay of the petitioner from Rs.300/- to Rs.550/- by the date of the termination of the second respondent's service. When the second respondent demanded for payment of regular scale of pay, the services of the second respondent were terminated. Therefore, the second respondent approached the Labour Court. The Labour Court on appreciation of the material available on record found that the petitioner institution comes within the jurisdiction of the Industrial Disputes Act and therefore, the Labour Court has got jurisdiction. The Labour Court also found that the termination of the services of the second respondent's services were bad in law. Though, the learned Counsel for the petitioner relied upon a judgment referred supra, the facts in that case are totally

different, wherein the petitioner was appointed for a period of three months or till a regular selected person assumes office and his services were accordingly terminated on 19-11-1988. When that order was assailed though the workman was successful before the High Court, the said order was set aside by the Apex Court on the ground that the appointment was for a fixed time and the termination was in terms of the appointment order. Admittedly in the present case, the second respondent was appointed as a Library Record Assistant for a period of three months and similar orders are being issued from time to time and the petitioner continued for a period of about four years continuously, and his services were terminated without even issuing an order or even notice. Therefore, the Tribunal has rightly rejected the claim of the petitioner's institution that it is entitled to terminate all the services in terms of the appointment order. It is not in dispute that the post in which the petitioner was appointed is continuing and the services of the second respondent are very much required by the petitioner institution. Under the above circumstances, there is no merit in the present writ petition, warranting interference of the award passed by the Labour Court.

7. In the result, the writ petition is dismissed. No costs.

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S. ANANDA REDDY, J

Dt.14-10-2004

Glv/kvh

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

Copies to:

1. The Presiding Officer, LabourCourt,
   Guntur Guntur District.

2. Two C Cs to the Government Pleader for Labour, High Court Buildings, Hyderabad. (OUT)

3. Two CD copies.